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Attorneys for Plaintiff and Real Party in Interest

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

INTERNATIONAL CHURCH

FOURSQUARE GOSPEL,

Plaintiff,

v.

CITY OF SAN LEANDRO, MICHAEL)

J. GREGORY (in his official capacity),)

SURLENE G. GRANT(in her official)

capacity), DIANA M. SOUZA(in her)

official capacity), JOYSE R.)

STAROSCIACK (in her official)

capacity), BILL STEPHES (in his)

) Case No.: CO7-03605-PJH-JCS

)

) **DECLARATION OF PETER
MACDONALD IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

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) Date: September 5, 2007

) Time: 9:00 a.m.

) Courtroom: 3

) Hon.: Phyllis J. Hamilton

DECLARATION PETER MACDONALD

1 official capacity), JIM PROLA (in his)
2 official capacity), JOHN JERMANIS(in)
3 his official and individual capacities),)
4 DEBBIE POLLART (in her official and)
5 individual capacities), DOES 1-50,)
6 Defendants.)

7 FAITH FELLOWSHIP FOURSQUARE)
8 CHURCH,)
9 Real Party in Interest.)

10 I, Peter D. MacDonald, do hereby declare as follows:

11 1. That I am an attorney of record in the above-encaptioned case, that if
12 called upon I could and would testify truthfully, as to my own personal knowledge,
13 as follows:

14 2. Exhibit A is the administrative record relative to the City of San
15 Leandro's decision on the properties located at 14600 and 14850 Catalina Street in
16 the City of San Leandro, CA. Specifically, Exhibit A consists of these documents as
17 follows:

18 3. Exhibit A §a is a true and correct copy of a rezoning application (May
19 11, 2007, and May 18, 2007) and related correspondence. Specifically, subsection 3
20 is a Letter from Gary Mortara, signed by the same, dated May 11, 2006.

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DECLARATION PETER MACDONALD

1 4. Exhibit A §c, subsection 1 is a true and correct copy of minutes of pleas
2 by Faith Fellowship members for action by the City Council in a City Council
3 meeting—open to the public—on October 16, 2006.
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5 5. Exhibit A §d, subsection 2 is a true and correct copy of a staff report of
6 the Business Development Committee (City Council), dated October 12, 2006.
7

8 6. Exhibit A §e a true and correct copy of materials from a Joint Work
9 Session of the Planning Commission and Board of Zoning Adjustments, dated
10 October 19, 2006. Specifically, subsection 1 is the agenda for the session while
11 subsection 3 is the minutes.
12

13 7. Exhibit A §f is a true and correct copy of letter dated October 24, 2006,
14 from the Pacific Justice Institute to the Planning Commission on behalf of the
15 CHURCH.
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17 8. Exhibit A §g a true and correct copy of materials from a Work Session
18 regarding Assembly Uses of the Board of Zoning Adjustments, dated December 7,
19 2006. Specifically, subsection 1 is the agenda for the session; subsection 2 is the
20 staff report; and subsection 3 is the minutes.
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22 9. Exhibit A §h, subsection 1 is a true and correct copy of the minutes of
23 the West San Leandro/MacArthur Boulevard Redevelopment Advisory Committee
24 meeting, dated December 20, 2006.
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1 10. Exhibit A §i, subsection 3 is a true and correct copy of the minutes of
2 the Redevelopment Advisory Committee meeting for the Joint Redevelopment Area,
3 dated January 17, 2007.

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5 11. Exhibit A §j is a true and correct copy of materials from a meeting of
6 the Planning Commission on February 22, 2007, regarding the adoption of the
7 Assembly Use Overlay District and the rezoning of 196 parcels. Specifically,
8 subsection 1 is the agenda; subsection 2 is the staff report; and subsection 3 is the
9 minutes.

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11 12. Exhibit A §k is a true and correct copy of materials from a City Council
12 meeting on March 19, 2007, regarding the adoption of the Assembly Use Overlay
13 District and the rezoning of 196 parcels. Specifically, subsection 1 is the agenda;
14 subsection 2 is the staff report; subsection 3 is the minutes; subsection 4 is Adopted
15 Ordinance No. 2007-005; and subsection 5 is Adopted Ordinance No. 2007-006.

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17 13. Exhibit A §l is a true and correct copy of Revised Zoning Application
18 from the CHURCH, dated March 20, 2007.

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20 14. Exhibit A §m is a true and correct copy of materials related to the
21 Conditional Use Permit Application for Entertainment Activity in an Industrial Park
22 District at 14600 Catalina Court, dated March 2007. Specifically, subsection 1 is
23 the application; subsection 2 is the site plan; and subsection 3 is the required
24 “proposed CUP findings.”
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1 15. Exhibit A §n is a true and correct copy of materials from the Planning
2 Commission meeting on April 12, 2007, regarding the Application for rezoning of
3 the Catalina Street property to the AU Overlay District. Specifically, subsection 1 is
4 the agenda; subsection 2 is the staff report with attachments; subsection 3 is a letter,
5 dated April 9, 2007, signed and submitted by me on behalf of the CHURCH;
6 subsection 4 is a statement from Paul Gantt, a Hazardous Materials expert; and
7 subsection 6 is the minutes.
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10 16. Exhibit A §o is a true and correct copy of materials from the City
11 Council meeting on May 7, 2007, regarding the Application for rezoning of the
12 Catalina Street property to the AU Overlay District. Specifically, subsection 1 is the
13 agenda; subsection 2 is the staff report with attachments; subsection 3 is a letter,
14 dated May 4, 2007, signed and submitted by me on behalf of the CHURCH;
15 subsection 4 is minutes; subsection 5 is a minute order denying the application; and
16 subsection 6 is a letter requesting reconsideration from Senior Pastor Gary Mortara
17 to City Manager John Jermanis.
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21 17. Exhibit A §p is a true and correct copy of City Documents, specifically
22 excerpts of the General Plan.
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24 18. Exhibit A §q is a true and correct copy of City Documents, specifically
25 excerpts of the Zoning Code. Subsection 1 is Article 1 of the Zoning Code;
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1 subsection 2 is Article 3 of the Zoning Code; and subsection 3 is Article 7 of the
2 Zoning Code.

3 19. Certain documents in the administrative record are reserved and in the
4 possession of the Defendants, as follows:
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6 20. Exhibit A §b consists of materials from the Business Development
7 Subcommittee (of City Council) meeting, dated June 8, 2006. Specifically, Exhibit
8 A §b, subsection 1 is the Agenda; subsection 2 is the staff report; and subsection 3 is
9 the minutes.
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11 21. Exhibit A §d consists of materials from the Business Development
12 Subcommittee (of City Council) meeting, dated October 12, 2006. Specifically,
13 subsection 1 is the agenda; subsection 2 is the staff report; and subsection 3 is the
14 minutes.
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16 22. Exhibit A §e, subsection 2 is the staff report of the Joint Work Session
17 of the Planning Commission and Board of Zoning Adjustments, dated October 19,
18 2006.
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20 23. Exhibit A §h, subsection 2 is the PowerPoint presentation given by
21 Debbie Pollart to the West San Leandro/MacArthur Boulevard Redevelopment
22 Advisory Committee.
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24 24. Exhibit A §i consists of materials from the meeting of the
25 Redevelopment Advisory Committee for the Joint Redevelopment Project Area, on
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1 January 17, 2007. Specifically, subsection 1 is the agenda and subsection 2 is the
2 staff report.

3 25. Exhibit A §n, subsection 5 is the petition signed by approximately
4 1,700 supporters of the Application for rezoning of the Catalina Street property to
5 the AU Overlay District, presented to the Planning Commission on April 12, 2007.
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7 I declare, under penalty of perjury under the laws of the State of California
8 and the United States of America, that the foregoing is true and correct and is of my
9 own personal knowledge, and indicate such below by my signature executed on this
10 27th day of July, 2007, in the County of Alameda, City of San Leandro.
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14 /S/ Peter MacDonald
15 Peter D. MacDonald, Declarant
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DECLARATION PETER MACDONALD